

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-1424V

KELLI HILL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 22, 2024

Henry Acciani, O'Connor, Acciani, & Levy, Cincinnati, OH, for Petitioner.

Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 20, 2020, Kelli Hill filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a Table injury –Shoulder Injury Related to Vaccine Administration (“SIRVA”) – as a result of her influenza (“flu”) vaccination on September 29, 2018. Petition at 1; Status Report filed July 26, 2021. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 17, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On November 21, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$110,000.00 in actual pain and suffering and \$8,256.32 to satisfy a State of Ohio Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Id. Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, I **award** the following compensation:

- 1) A lump sum payment of **\$110,000.00** (representing actual pain and suffering) in the form of a check payable to Petitioner.
- 2) A lump sum payment of **\$8,256.32**, representing compensation for satisfaction of the State of Ohio Medicaid lien, payable jointly to Petitioner and to:

Ohio Tort Recovery Unit
5475 Rings Road Suite 200
Dublin, OH 43017

Petitioner agrees to endorse this payment to Treasurer, State of Ohio for satisfaction of the Medicaid lien.

This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

KELLI HILL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 20-1424V
Chief Special Master Corcoran
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On October 20, 2020, Kelli Hill (“petitioner”), filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34. Pursuant to the Petition and to a clarifying status report filed on July 26, 2021 (ECF No. 19), petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) in her right shoulder as a result of an influenza (“flu”) vaccine administered on September 29, 2018. Petition at 1. On August 15, 2022, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act, and on August 17, 2022, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 42; ECF No. 44.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that Kelli Hill should be awarded \$110,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy a State of Ohio Medicaid lien in the amount of \$8,256.32, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Ohio may have against any individual as a result of any Medicaid payments the State of Ohio has made to or on behalf of petitioner from the date of her eligibility for benefits through the date of judgment in this case as a result of her alleged vaccine-related injury suffered on or about September 29, 2018, under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through two lump sum payments as described below:

- 1) A lump sum payment of \$110,000.00 in the form of a check payable to petitioner.¹
- 2) A lump sum payment of \$8,256.32, representing compensation for satisfaction of the State of Ohio Medicaid lien, payable jointly to petitioner and to:

Ohio Tort Recovery Unit
5475 Rings Road Suite 200
Dublin, OH 43017

Petitioner agrees to endorse this payment to Treasurer, State of Ohio for satisfaction of the Medicaid lien.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

Respectfully submitted,

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Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

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/s/ Alexa Roggenkamp
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DATED: November 21, 2024